

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 5.8.2005.

CORAM

THE HON'BLE MR.JUSTICE AR.RAMALINGAM

C.R.P.(NPD)No.1491 and 1557 of 2002  
and  
C.M.P.No.15824 of 2002

D.E.Hussain Ansar                      Petitioner in C.R.P.No.1491 of 2002  
Respondent in C.R.P.No.1557 of 2002

vs.

S.Elumalai                                Respondent in C.R.P.No.1491 of 2002  
Petitioner in C.R.P.No.1557 of 2002

Civil Revision Petitions against the decreetal order dated 11.3.2002 in R.C.A.Nos.162 of 1997 and 1539 of 1996 respectively passed by the Appellate Authority (VIII Judge, Court of Small Causes), Chennai confirming the order dated 31.10.1996 in R.C.O.P.No.2598 of 1992 on the file of the Rent Controller (XII Judge, Court of Small causes), Chennai.

Mr.K.Venkatraman                      for petitioner in C.R.P.No.1491  
of 2002 and respondent in C.R.P.  
No.1557 of 2002

Mr.K.Elango                                for respondent in C.R.P.No.1491  
of 2002 and petitioner in C.R.P.  
No.1557 of 2002.

COMMON ORDER

These two civil revision petitions have been filed one by the tenant viz., D.E.Hussain Ansar against the order in R.C.A.No.162 of 1997 and the other by one Elumalai, the landlord against the order in R.C.A.No.1539 of 1996 passed by one and the same appellate authority viz., VIII Judge, Court of Small Causes, Chennai.

2. The landlord filed R.C.O.P.No.2598 of 1992 before the Rent Controller cum XII Judge, Court of Small Causes, Chennai against the tenant for the purpose of fixing fair rent at Rs.37,730/= per month

from the date of filing of the petition. It was resisted by the tenant by filing counter to the effect that the existing and agreed rent of Rs.1800/= per month itself is fair rent and there is no need for fixation of fair rent much less at Rs.37,730/=.

3. After having considered the oral evidence of one witness viz., the Engineer Seenivasan as PW1 and four witnesses as R.Ws.1 to 4 and Exhibits marked as Exs.P1 to P7 and R1 to R13, the Rent Controller has come to the conclusion and fixed the fair rent at Rs.8776/= per month from the date of petition. On appeals preferred viz., R.C.A.No.1539 of 1996 by the landlord and R.C.A.No.162 of 1997 by the tenant, the appellate authority dismissed both the appeals confirming the fixation of fair rent by the Rent Controller at Rs.8776/= per month. Aggrieved against such fixation of fair rent, the tenant preferred C.R.P.No.1491 of 2002 and the landlord preferred C.R.P.No.1557 of 2002.

4. Arguments of the learned counsels appearing for either side were heard elaborately in the light of oral and documentary evidence available and the orders of both the courts below. The counsels appearing for either side submitted various points. In short, the counsel appearing for the tenant fairly conceded that his civil revision petition can be dismissed and the counsel appearing for the landlord pointed out that the value of the land and building that is lying on the same Purasawalkam High Road has not been taken into consideration either by the Rent Controller or by the appellate authority. He particularly pointed out that as per Ex.P5 certified copy of the sale deed pertaining to door No.285 at Purasawalkam High Road has not been taken into consideration and Ex.R12 registration copy of the sale deed pertaining to door No.53 upon the same High Road alone has been taken into consideration which is not the correct approach.

5. Consequently, if Ex.P5 is perused, I am able to see that it is relating to door No.289 and 298 showing the site value as Rs.1,22,080/=. On perusal of Ex.R12 which is a registration copy of the sale deed of the year 1994 relating to door No.53/1 showing the value of the site as Rs.5,75,000/=. Therefore, inasmuch as the petition mentioned premises connected with these civil revision petitions is bearing door No.13, Purasawalkam High Road and the property bearing door Nos.289 and 298 covered by Ex.P5 is far away from the petition mentioned premises and the property bearing door No.53/1 covered by Ex.R12 is nearer to the petition mentioned premises, there is nothing wrong on the part of the Rent Controller as well as the appellate authority in taking the site value as Rs.5,80,000/=.

6. In other respects, such as age of the building fixed as 70 years, classification of the building as clause-I, 10% for amenities, half percent towards scheduled amenities, cost of construction fixed by the Rent Controller and confirmed by the appellate authority are not seriously disputed by the counsels for either side that too with sufficient and acceptable materials.

7. In such circumstances, I am of the view that the approach and reasoning of both the courts below for the purpose of fixing fair rent at Rs.8776/= per month from the date of petition does not appear to be unreasonable or unjustified or perverse in a way to invite this court's interference upon the concurrent findings of the courts below. Accordingly, the civil revision petitions fail and the same are dismissed. No costs. The connected C.M.P is also dismissed.

5.8.2005.

ssk.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Registrar,  
Court of Small Causes,  
Chennai.
2. The Record Keeper,  
V.R.Section,  
High Court, Madras-104.

1 cc to Mr.K.Venkatraman, Advocate, SR.32976

2 ccs to Mr.N.Kiruphakaran, Advocate, SR.Nos.33024, 38025

1a (co)

dv/12.8.05

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ORDER IN C.R.P. (NPD)  
Nos.1491 & 1557 of 2002